

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

|  |   |                                      |
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| In the Matter of                         | ) |                                      |
|  | ) |                                      |
| Performance Measurements and Standards   | ) | CC Docket No. 01-318                 |
| for Unbundled Network Elements and       | ) |                                      |
| Interconnection                          | ) |                                      |
|  | ) |                                      |
| Performance Measurements and Reporting   | ) | CC Docket No. 98-56                  |
| Requirements for Operations Support      | ) |                                      |
| Systems, Interconnection, and Operator   | ) |                                      |
| Services and Directory Assistance        | ) |                                      |
|  | ) |                                      |
| Deployment of Wireline Services Offering | ) | CC Docket No. 98-147                 |
| Advanced Telecommunications Capability   | ) |                                      |
|  | ) |                                      |
|  | ) |                                      |
| Petition of Association for Local        | ) | CC Docket Nos. 98-147, 96-98, 98-141 |
| Telecommunications Services for          | ) |                                      |
| Declaratory Ruling                       | ) |                                      |

**COMMENTS OF THE  
OKLAHOMA CORPORATION COMMISSION  
REGARDING THE ESTABLISHMENT OF  
NATIONAL PERFORMANCE MEASUREMENTS**

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***Introduction***

In the above-captioned matter, the Federal Communications Commission ("FCC") seeks comment on performance measures ("PMs") in the Notice of Proposed

Rulemaking (“NPRM”), released November 19, 2001, and among other things, seeks comment on whether to adopt a select group of measurements and standards for evaluating incumbent local exchange carrier (“ILEC”) performance in the provisioning of facilities that are used by their carrier-customers to compete for end-user customers. In particular, the FCC offered for comment performance measurements and standards that could apply to the key aspects of pre-ordering, ordering, provisioning, and maintaining those facilities and services that are critically important to ensuring that competitive local exchange carriers (“CLECs”) can enter the market for local exchange services as contemplated by the Telecommunications Act of 1996. The Oklahoma Corporation Commission (“OCC”) supports the FCC’s efforts in addressing national PMs. The OCC hereby respectfully submits these comments regarding the establishment of national performance measurements for ILEC wholesale operations.

### ***Establishment of a core set of PMs***

Specifically, the OCC supports the establishment of a core set of national PMs and standards for ILECs. We agree with the FCC’s selection of proposed PMs and standards as expressed in the definitions provided in the NPRM. Based upon Oklahoma’s experience, we believe these PMs will serve to evaluate ILEC performance, promote the goal of efficient and effective processes between CLECs and ILECs, and provide a deterrent to anticompetitive behavior in addition to state enforcement of remedy plans.

The OCC adopted its own comprehensive set of performance measures, developed through a lengthy collaborative process that involved both the OCC and industry. Oklahoma’s PMs are consistent with those of the other states in the Southwestern Bell Telephone Company (“SWBT”) region. We believe that Oklahoma’s Performance Measurements reflect all parties’ best collective judgement of what is required to ensure adequate service in this state. We currently have in place one or more performance measures generally corresponding to the definitions of each of the twelve specific PMs the FCC is offering for comment.

Existing state PMs have been demonstrated to successfully document ILEC performance for purposes of assessing compliance with section 271 competitive

checklist. A core set of national PMs, combined with the state PMs, would allow states that have not already developed their own performance measurements the ability to utilize existing measures as a guideline in adopting those PMs that are relevant to their own needs. One benefit of such a choice would be maximization of these states' resources and avoidance of many implementation problems encountered by states that have already implemented performance measurements.

It is the OCC's position that most differences among state monitoring efforts and the proposed federal PMs reflect actual differences among the carriers' OSS systems, facilities and their regional markets. Preemption of such a state program with a uniform national plan would eliminate measures found to be necessary in some areas and/or add measures deemed to be unnecessary in others. While development of a federal program, if used as a default, would be useful to promote competition in areas where state monitoring programs do not exist, such a federal program should not preempt state-developed programs, which represent best efforts of the affected carriers and regulators to properly monitor and reward or penalize performance based on geographically localized market conditions.

Variations in monitoring efforts between states should not be presumed to be inefficient or to create unnecessary regulatory burdens. The existence of various state monitoring programs, combined with the proposed national PMs, should improve the probability of identifying and implementing the most effective and efficient elements of all successful monitoring programs by providing multiple samples for evaluating metrics and standards. Further, the actions of some states in adopting all or parts of existing state monitoring programs, as well as the efforts of states, such as Oklahoma, to improve the efficiency of their programs based on regional experience, suggest that, to the extent it is consistent with achieving effective performance, various state and federal monitoring programs will converge naturally over time. Differences among them will likely remain only where such differences are truly relevant.

As a further consideration, in states that have performance measures in place, including Oklahoma, an intimate relationship exists between state PMs and the section 271 agreements under which performance is provided by ILECs. Preemption of state

PMs would likely disrupt agreements adopted pursuant to section 271 applications and any state remedy plans in place.

### ***Cost Issues***

In its NPRM, the FCC seeks comments regarding the cost of state and federal measurements and standards. It is the OCC's position that the issues addressed in the proposed core national standards are fundamental to the performance measurement process, and therefore, have been addressed by most, if not all, states in their performance measurements. The OCC suggests that the cost of the proposed national PMs will be mitigated because the proposed national PMs will not require implementation of an entire new PM system or OSS, but rather addition of PMs very similar to some existing state PMs.



### ***Regional analysis, reporting, and enforcement***

The OCC recognizes that the FCC will probably require the reporting of data from its national PMs by state and carrier. The OCC strongly suggests that the the national data be disaggregated, reported, and made available to federal and state regulators on a regional basis, as well. It has been the OCC's experience that most performance problems encountered by a carrier within a region will be encountered by all other states within that carrier's region.

The OCC believes that national enforcement, in addition to state enforcement, would serve as a further deterrent to anticompetitive behavior. We recommend that the FCC have the necessary enforcement mechanisms in place to compel reporting of and compliance with any national measurements adopted. Whatever penalty scheme the FCC adopts should not conflict with or preempt the state penalty schemes already in place. The OCC agrees with the FCC that federal penalties should be set at a level sufficient to deter inadequate performance. Standards are meaningless without a strong enforcement mechanism to ensure compliance. It is the OCC's position that a national penalty plan that could be written off by ILECs as simply one of the costs of

doing business would prove to be detrimental not only to competing carriers and end-users, but to competition as well.

### ***Review Process***

The OCC participates in a periodic regional review process wherein Oklahoma performance measures are reevaluated and modified relative to those in place in the SWBT five-state region. Based upon this experience, the OCC recommends that a similar periodic review, perhaps biennial, in which the states and industry can participate through any comment cycle established. Based on input regarding what is working and what is not, PMs can be added deleted or modified.

It is the OCC's position that, consistent with accepted statistical and data gathering methodologies, data validation must be an integral part of any federally executed review process. Because the national measures will be developed, implemented, and monitored by the FCC, it is appropriate for that agency to perform the validation. A centralized validation process will offer the additional benefit of standardized information regarding the accuracy and reliability of each national measure across states, carriers and regions. Results of the validation should be made available to all states, ILECs and CLECs.

It is the OCC's position that, because the future of competitive local markets is indeterminate, establishing a sunset date at this time would be inappropriate. The OCC does not support the establishment of a specific sunset date on which the proposed reporting requirements would cease to apply, but rather encourages the FCC to establish a trigger event, such as level of competition, that could be used by states to voluntarily discontinue use of the national PMs. In this way, any measures needed to prevent backsliding could remain in effect as long as they are needed based upon the best collective judgement of the affected carriers and regulators within the geographically localized service region.

## ***Conclusion***

The OCC's objective in this proceeding is to promote competition in Oklahoma by requiring ILECs to provide wholesale facilities and services to competitors at "rates, terms and conditions that are just, reasonable, and nondiscriminatory," as required by Section 251 of the Telecommunications Act of 1996.<sup>1</sup> The FCC's goal, as generally stated by the FCC in the NPRM, is to minimize inconsistent or redundant federal/state performance measurement and reporting requirements of the carriers. The OCC believes that these two goals are consistent.

The OCC reiterates its support for the FCC's efforts to establish a core set of national performance standards in order to promote the harmony of state and national standards. Further, the OCC suggests that the existence of very similar state and regional PMs already in place should be expected to mitigate the cost of implementing of any national PMs that may be adopted. The OCC also supports the gradual modification of state and federal requirements in order to bring them into conformity. The reporting of such conformed national state, and regional data may be expected to provide consistency in the analysis of carrier activity and thereby maximize the usefulness of the information provided by implementation of core national performance measurements. Finally, the OCC supports the establishment of a periodic collaborative process at the national level in order to review and modify the national performance measurements as needed, and recommends national enforcement in addition to state enforcement as a further deterrent to discriminatory behavior.

Respectfully Submitted,

THE OKLAHOMA CORPORATION COMMISSION

By:

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<sup>1</sup> 47 U.S.C. § 251(c)(2), (c)(6).